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09/444,660	11/22/1999	EDWARD J. PETRUS		8939

7590 06/13/2002

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EXAMINER

PORTER, RACHEL L

ART UNIT

PAPER NUMBER

3626

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Changes to the Patent Rule

October 20, 2000

Volume 1, Issue

*This is the third in a series of Patent News Bulletins to assist you in keeping up to date with significant rule changes which affect you. Keep this copy to use as a bookmark for your present MPEP, or view this bulletin again on the USPTO Website.*



## Simplified Amendment Practice: Replacement paragraphs/sections/claims to be used. 37 CFR 1.1

*The rule package "Changes to the Patent Business Goals - Final Rule," published in the Federal Register on September 8, 2000, 65 Fed. Reg. 54603 (Sept. 8, 2000), and the Official Gazette on September 19, 2000, 1238 Off. Gaz. Pat. Office 77 (September 19, 2000). The PBG rule package makes a number of revisions to Title 37.*

*The entire final rule may be found at the USPTO Website at <http://www.uspto.gov/web/offices/docproc/olipa/pbg/index.html>.*

*Areas and individuals primarily affected by this rule change include:*  
 (1) Patent Examiners and Tech Support Staff in the Technology Centers  
 (2) Office of Patent Publication

*Any questions related to this change in practice should be directed to*  
 Joe Narcavage,  
 Special Projects Extr.,  
 (703-305-1795) or Ltz.  
 Dougherty, Legal  
 Advisor, (703-305-3156)  
 OPLA



Mandatory compliance with the revised rule is not required until March 1, 2001. It is suggested that applicants adopt the revised procedures on or after November 7, 2000, in order to adjust to the changes in amendment practice.

Under the new amendment practice, amendments to the specification must be made by the submission of clean new or replacement paragraph(s), section(s), specification, or claim(s). This practice will provide a specification (including claims) in clean, or substantially clean, form that can be effectively captured and converted by optical character recognition (OCR) scanning during the patent printing process.

The new practice requires applicant to provide, in addition to the clean version of a replacement paragraph/section/claim, a marked-up version using applicant's choice of a conventional marking system to indicate the changes, which will aid the examiner in identifying the changes that have been made. The marked-up version must be based on the previous version and indicate (by markings) how the previous version has been modified to produce the clean version submitted in the current amendment. The term "previous version" means the version of record in the application as originally filed or from a previously entered amendment.

The following format is suggested in an amendment paper: (1) a clean version of each replacement paragraph/section/claim with clear instructions for entry; (2) starting on a separate page, any remarks/arguments (37 CFR 1.111); and (3) starting on a separate page, a marked-up

*Amendment by  
paragraph/section/claim  
replacement in clean form.*

version entitled "Version with markings showing changes made."

Applicants will also be able to submit a set of all pending claims, consolidating previous versions of pending claims from a series of separate amendments into a single clean version in a single amendment paper. This submission of a clean version of all the pending claims will be construed as recting the cancellation of all previous versions of any pending claims. No marked version will be required to accompany a clean version where no changes other than consolidation are being made.

The amended rule encourages issuance of applications with examiner's amendment where practitioners/applicants file a formal amendment. Additions or deletions of subject matter in the specification, in the claims, may continue to be made in an examiner's amendment at the time of allowance by instructions to make a change at a precise location in the specification or the claims. An examiner's amendment may incorporate a printed copy of a fax or e-mail amendment submitted by applicant. Only that part of the e-mail or fax directed to a clean version, or a portion of, a paragraph to be added should be printed and attached to the examiner's amendment. A paper copy of the entire e-mail or fax as entered in the file. The electronic version of the e-mail is not required to be saved as a printed e-mail (and any attachments) as part of the application file record.



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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C.

Paper No. \_\_\_\_\_

**Notice of Non-Compliant Amendment (37 CFR 1.121)**

The amendment filed on 6/11/02 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on September 8, 2000 (see 65 Fed. Reg. 54603, Sept. 8, 2000, and 123, Sept. 19, 2000). In order for the amendment to be compliant, applicant must supply the following omissions or corrections in response to this notice.

**THE FOLLOWING ITEMS ARE REQUIRED FOR COMPLIANCE WITH RULE 1.121 (APPLICANT NEED NOT RESUBMIT THE ENTIRE AMENDMENT):**

- 1. A clean version of the replacement paragraph(s)/section(s) is required. See 37 CFR 1.121(b)(1)(ii).
- 2. A marked-up version of the replacement paragraph(s)/section(s) is required. See 37 CFR 1.121(b)(1)(iii).
- 3. A clean version of the amended claim(s) is required. See 37 CFR 1.121(c)(1)(i).
- 4. A marked-up version of the amended claim(s) is required. See 37 CFR 1.121(c)(1)(ii).

Explanation: \_\_\_\_\_

(LIE: Please provide specific details for correction to assist the applicant. For example, "the clean version of claim 6 is missing.")

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website <http://www.uspto.gov/web/offices/dcom/olia/pbg/sampleaf.pdf>. A condensed version of a sample amendment format is attached.

**PRELIMINARY AMENDMENT:** Unless applicant supplies the omission or correction to the pre-amendment in compliance with revised 37 CFR 1.121 noted above within ONE MONTH of the mail date of this letter, examination on the merits may commence without entry of the originally proposed preliminary amendment. This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

**AMENDMENT AFTER NON-FINAL ACTION:** Since the above-mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of ONE MONTH or THIRTY DAYS from the mailing of this notice, whichever is longer, within which to supply the omission or correction noted above in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Yours  
\_\_\_\_\_  
Legal Instruments Examiner (LIE)

(Rev. 12/01)

Legal Instruments Examiner (LIE)

(Rev. 12/01)